(1)

Supreme Court, U.S.

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OFFICE OF THE CLERK

In The

Supreme Court of the United States

October Term, 2000

In Re NELSON FERNANDES,

Petitioner.

On Petition for an Extraordinary Writ
of Mandamus or Certiorari
To The Supreme Court of New Jersey

Nelson Fenandes – Pro se
9 Fox Run
Denville, N.J. 07834

43 pp

QUESTIONS PRESENTED

1. Did the Court and/or Clerk violate the law in each of the reasons for granting the writs in order to warrant this Court exercising its discretion.

2. Since the Court did not decide the motion, does the two-month delay represent a denial of due process, which warrants waiving the filing time requirements.

3. Does the Court's conduct amount to an effective denial of my motion, which provides this Court with jurisdiction under Rule 10 to grant certiorari.

4. If a litigant's recusal motion is denied, and the other rulings are sufficiently blatant, do those rulings prove bias in order to find the trial a structural error.

5. Did the attorneys for Rockaway Township commit a fraud upon this Court and violate the Rules of Professional Conduct by referring to a hearing in a Federal District Court on the foreclosure that never took place.

6. Did the conduct of the Court, Clerk, and Rockaway's attorney interfere with federal rights in order to justify disciplinary action.

7. Would sample petitions & downloadable Rules on the internet site reduce errors and petition review time.

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PARTIES

Rockaway Township, New Jersey, represented by;

EDWARD BUZAK
MONTVILLE OFFICE PARK
150 RIVER ROAD SUITE N-4
MONTVILLE, NEW JERSEY 07045
(973) 335-0600

Statement on the Orders Entered

The orders entered in this case are as follows;

Chancery. Court -	Exh. I, J, K, L
App. Div. -	Exh. F, G, H
Sup. Court – N.J.	Exh. A (letter) C, D, E U.S. Exh. B

Statement of the Basis for Jurisdiction

The N.J. Supreme Court perpetrated a fraud to avoid a decision that can be reviewed by this Court. So, this Court may exercise the power to issue all writs in aid of its jurisdiction. Hohn v. U.S., 118 S.Ct. 1969 (1998).

Statement of the Case

I filed an appeal as of right because the lower court dismissed my motion, struck my counterclaim and entered judgment based on a ruling that conflicts with a Supreme Court precedent I cited. The foreclosure action was instituted on or about March 11, 1999, and is subject to the protection of the 14th Amendment. The judge also sua sponte raised the entire controversy doctrine during its decision, which violates an appellate ruling. I moved for reconsideration and preserved the federal issue by moving for recusal, which was denied. (Exh. K&J) The court's rulings were blatant proving bias,[1] which makes the trial a structural error.[2] The Supreme

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[1] **"Fundamental to any consideration of possible judicial disqualification is a showing of prejudice or potential**

Court dismissed my appeal as of right as not raising a substantial constitutional question. R.2:2-1(a). (Exh. E) That dismissal resulted from not applying the law in effect when it rendered its decision, [3] which appears deliberate in view of the reasons for granting the writs. The Court did not apply a strict standard of review though the issue was blatant bias in the rulings, requiring disqualification. [4] A standard of review

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bias." Flowers, (supra) , 109 N.J. Super. at 312 . . . **Of course, an error might be sufficiently blatant, and so lacking in an alternative, good faith explanation that the error would support a charge of bias.** . . . . We also acknowledge that it is not necessary to prove actual prejudice on the part of the court, and that the **mere appearance of bias may require disqualification**. R. 1:12-1(f). State v. Marshall, 690 A.2d 1, 148 N.J. 89 (1997).

[2] "[I]f the defendant had counsel and was tried by an impartial adjudicator, there is a strong presumption that any other constitutiona[l] errors that may have occurred are subject to harmless-error analysis." Rose v. Clark, 478 U. S. 570, 579 (1986). Indeed, **we have found an error to be "structural," and thus subject to automatic reversal, only** in a "very limited class of cases." . . . Tumey v. Ohio, 273 U. S. 510 (1927) **(biased trial Judge)**." Neder v. U.S., 527 U.S. 1, 119 S.Ct. 1827 (1999).

[3] "The general rule, however, is that **an appellate court must apply the law in effect at the time it renders its decision** . . . **This same reasoning has been applied where the change was constitutional, statutory, or judicial.** Thorpe v. Housing Auth. City Durham, 393 U.S. 268, 89 S. Ct. 518, 21 L. Ed. 2d 474 (01/13/69).

[4] "This **Court will apply a stricter standard of review to . . . misconduct..**" State v. Bey, 129 N.J. 557 (N.J. 1992).

delineates the boundaries within which argument will take place. [5] So, refusal to apply State v. Marshall as the constitutional standard of review has denied me basic constitutional protection [6] since the judge's rulings were not reviewed to determine if they were sufficiently blatant to prove bias and that he denied recusal knowing he violated precedent. [7] This makes the appeal as of right a procedural morass offering no substantial hope of relief. [8] This conduct interfered with the course of justice. [9] Based on R. 2:8-1(d)

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[5] "**A standard of review** frames the terms in which justification may be offered, and thus **delineates the boundaries within which argument may take place.**" O'Lone v. Estate Shabazz et al, 482 U.S. 342, 107 S. Ct. 2400, 96 L. Ed. 2d 282 (06/09/87).

[6] "**To apply an unusually lenient constitutional standard of review here, could deprive the . . . most basic kind of constitutional protection.**" Miller v. Albright, 118 S.Ct. 1428, 140 L.Ed.2d 575 (1998).

[7] Moreover, **Judges are not free to err on the side of caution; it is improper for a court to recuse itself unless the factual bases for its disqualification** are shown by the movant to be true or **are already known by the court.** Clawans v. Schakat, 49 N.J. Super. 415 (App. Div. 1958).

[8] "It would be nothing less than abdication of our constitutional duty and function to rebuff petitioners with this mechanical formula whenever it may become clear that the alleged state remedy is nothing but a procedural morass offering no substantial hope of relief." Marino v. Ragen, 332 U.S. 561, 68 S. Ct. 240, 92 L. Ed. 170 (12/22/47).

[9] "When a state deprives a person of liberty or property through a hearing held under statutes and circumstances

and the Clerk's letter (Exh.A) it is reasonable to assume the Court read the motion and decided to commit a fraud to make it appear the motion was for reconsideration instead of leave. Since the Supreme Court selects the standard of review [10] my motion pointed out that it didn't apply State v. Marshall. [11] By so doing, the Court avoided the issue of bias in the rulings to avoid reversing the judgment as a structural error, disqualifying the judge, and remanding for trial with an impartial judge. Since granting leave allows a second

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which necessarily **interfere with the course of Justice,** it **deprives him of liberty and property without due process of law**. Moore v. Dempsey, 261 U.S. 86; Frank v. Mangum, 237 U.S. 309.

No matter what the evidence was against him, he had the right to have an impartial Judge. **He seasonably raised the objection and was entitled to halt the trial because of the disqualification of the Judge**, which existed both because of his direct pecuniary interest in the outcome, and because of his official motive to convict and to graduate the fine to help the financial needs of the village. There were thus presented at the outset both features of the disqualification. Tumey v. Ohio, 273 U.S. 510, 47 S. Ct. 4379 (1927).

[10] "A recent decision by the New York Court of Appeals **is consistent with the standard of review that we adopt.**" Weiss v. Carpenter, Bennett & Morrissey, 672 A.2d 1132, 143 N.J. 420 (N.J. 03/06/1996).

[11] **"[c]onfession of error is good not only for the soul but for an accurate view of the law." . . We are confident that the world will continue to turn if judges are allowed to correct their mistakes.** Darel v. Pennsylvania Mfg. Assoc. Ins. Co., 114 N.J. 416 (N.J. 03/29/1989).

rehearing to correct a manifest denial of justice, I cited authority consistent with R.1:1-2 and granting a second rehearing. [12] Instead of relaxing the rules and correcting its error to avoid filing in this Court, the Supreme Court of N.J. perpetrated a fraud to impede this Court. It was hoping its fraud would go unnoticed so this Court would deny a petition for certiorari for a lack of subject matter jurisdiction, thus denying me relief, proving the judicial system and petitioner were not well served by that Court.[13] The underlying conduct that led to the fraud is an abdication of the federal and state equivalent to the Equal Protection or Due Process Clauses. [14] Although the Court is ordinarily free

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[12] There are strong arguments for **allowing a second petition for rehearing where a rigid application of this rule would cause manifest injustice.** Cahill v. New York, 351 U.S. 183 (1956) (granted successive petition); U.S. v. Ohio Power Co., 353 U.S. 98 (1957) (same).

[13] "The needs of litigants and the judicial system are well served by the conscientious Judge who is frankly willing to acknowledge and correct error in a way that shortcuts the consumption of time, expense, and resources involved in the appellate process. See Darel v. Pa. Mfrs. Ass'n. Ins. Co., 114 N.J. 416, 426, 555 A.2d 570 (1989)." Ledezma v. A & L Drywall, 604 A.2d 169, 254 N.J.Super. 613 (A.D. 1992).

[14] **"A state court may, of course, apply a more stringent standard of review** as a matter of state law under the State's equivalent to the Equal Protection or Due Process Clauses. . . . see Brennan, State Constitutions and the Protection of Individual Rights, 90 Harv. L. Rev. 489 (1977)." Minnesota

to apply or not apply a standard of review, under the circumstance, the failure to do so denies the **"most basic kind of constitutional protection"** when addressing biased rulings. Miller v. Albright, supra. Failure to apply that law effectively overrides or conflicts with Neder v. U.S., supra by avoiding the issue of bias in the jduge's rulings.

I found State v. Marshall while preparing a petition for this Court. I filed a motion in the N.J. Supreme Court believing the 7 justices would correct a manifest injustice caused by their overlooking this standard of review since it was never applied since it was reached in 1997. Instead, they violated their own court rule and perpetrated a fraud on this Court. This is not the conduct one expects from a court when a manifest injustice is brought to its attention. It's more like the conduct of a court that instituted a policy and is now using its authority to dispose of the case while concealing the misconduct of the judge as a reward for following its policy. The prospect of this policy being repeated by other state Supreme Courts creates a constitutional dilemma.

The misconduct of the N.J. Supreme Court in the following reasons provides clear and convincing evidence that the holding of State v. Marshall are essential to protecting a litigant's federal right to an impartial judge because bias in the rulings may be the policy of the Court.

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v. Clover Leaf Creamery Co., 449 U.S. 456, 101 S. Ct. 715, 66 L. Ed. 2d 659 (01/21/81).

I - Reasons for Granting the Petition

The authorities and facts in each reason are part of every other reason as though fully set forth therein.

1. Not Deciding the Motion Violates Federal Law

I paid the fee to file a motion for leave to file a 2nd motion for reconsideration to correct a manifest injustice, which entitles me to a decision. (Exh.M) [15] The foregoing holding is not limited to appeals because a motion for leave requires the court to decide whether to allow relief which is not otherwise allowable. [16] By not deciding the motion as required, the N.J. Supreme Court violates this holding, which deprives this Court of the decision required by Rules 10(b) & (c). Hence, this Court is unable to grant or deny a petition for a writ of certiorari without subject matter jurisdiction.

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[15] "The filing fee required by the Supreme Court on a motion for leave to appeal is $20 and **if that fee is paid, and the papers are otherwise proper, the motion will be considered with the possibility that leave** to appeal **will be granted.**" Burns v. Ohio, 360 U.S. 252 (1959).

[16] ""Leave of court" is defined as follows in Black's Law Dictionary: "**Permission obtained from a court** to take some action which, without such permission, would not be allowable . . " Black's Law Dictionary 801 (5th ed. 1979)." Hunt v. Vasquez, 988 F.2d 119 (9th Cir. 02/11/1993).

2. That Court Violated State & Federal Court Rules

R.2:8-1(d) of the N.J. Court Rules requires the motion to be granted or denied by the Court, where its states; "**upon determination of the motion the court or the clerk acting under its direction shall forthwith enter an order granting or denying the motion in accordance with the determination of the Court** and shall mail true copies thereof to counsel." By violating R.2:8-1(d), the N.J. Supreme Court also defeats the jurisdictional prerequisites in Rule 10(b) & (c) of this Court, thereby depriving me of the right to seek relief in this Court by way of a petition for a writ of certiorari. (Exh. A) Therefore, this Court may issue all writs in aid of its jurisdiction in order to compel a decision to conform to the Rules of both courts, since the foregoing conduct denies due process, which creates exceptional circumstances. [17]

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[17] "The All Writs Act provides that "[t]he Supreme Court . . . may issue all writs necessary or appropriate in aid of [its] jurisdictio[n] and agreeable to the usages and principles of law." As expressly noted in this Court's Rule 20.1, issuance of a writ under Section 1651 "is not a matter of right, but of discretion sparingly exercised," and "[t]o justify the granting of any such writ, the petition must show that the writ will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court."" Hohn v. U.S., 118 S.Ct. 1969 (1998).

3. Violating its Court Rule Violates Judicial Canon 3

By not deciding the motion as required by R.2:8-1(d), the N.J. Supreme Court violated its own Court Rules; which is a violation of Judicial Canon 3. [18]

4. Clerk Violated Canon 1 on Performance of Duties

The clerk of that Court violated the Code of Conduct for Judiciary Employees. Canon 1 B. requires him to "perform official duties properly." He violated this canon by not limiting himself to the duties set forth in R.2:8-1(d). He further violated this rule by not acting "forthwith". The Clerk knows from experience that the Court has granted motions for leave then denied relief. [19] Since the Court is required to rule on motions for leave, the Clerk would not violate R.2:8-1(d) by usurping the Court's authority. By acting as directed by the Court, the clerk knew or should have known that he was violating his duty as defined in R.2:8-1(d) and Canon 1.

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[18] **"It is clearly established that a magistrate can violate Canon 3 of the Judicial Code of Ethics by failing to adhere to court rules** or administrative procedures." In The Matter Of Ozell Eplin, No. 20106, 1992.WV.13 (Sup.Ct.W.Va. 03/31/92).

[19] "The **motion for leave** to file a notice of petition for certification and petition for certification as within time **is granted**; and it is further ORDERED that **the petition for certification is denied.**" State v. Wright, 143 N.J. 518 (1996); State v. Parnell, 137 N.J. 308 (1994).

5. Actual Impropriety by the Clerk

The clerk of the Court violated the Code of Conduct for Judiciary Employees. Canon 3 requires "Avoiding Actual or Apparent Impropriety". He violated this canon by following the Court's direction, which is in conflict with R.2:8-1(d). He also violated this canon by misrepresenting the motion as the second for reconsideration (Exh. A), though it was a motion for leave. As the Clerk of that Court, he knows or should know the difference between the two, making this an obvious impropriety. [20] He misrepresented the motion so he could write; **"the matter is closed without further action being taken by the Court"** (Exh. A), which makes it appear a refusal to consider a second motion for reconsideration in order to conceal a refusal to decide a motion for leave that violates federal law. Therefore, the clerk conspired to carry out the Court's fraud, which violates the guideline that requires judiciary employees not risk "(2) participating in activities or allowing themselves to be used in such a manner as to impair the dignity and esteem in which the court should be held." If the clerk sought guidance and refused to act pursuant to the Court's direction, he would have saved himself and the Court from impairing the dignity and esteem of that institution by willful misconduct.

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[20] Bethel School Dist. No. 403 et al. v. Fraser, a minor, et al., 478 U.S. 675, 106 S. Ct. 3159, 92 L. Ed. 2d 549 (1986).

6. Court & Clerk Committed a Fraud on This Court

The clerk's letter and R.2:8-1(d) show the Court read the motion as usual. After reading it, the Court chose not to decide it by directing the Clerk to mislead petitioner and this Court in the manner previously described. This fraud was intended to keep the judicial machinery from performing in the usual manner by depriving this Court of a decision [21] needed to consider a petition for a writ of certiorari, which is a denial of due process and a fraud on this Court. [22] Moreover, the Court's deliberate delay before sending the letter to petitioner was intended to run the time for filing a petition on its earlier orders. A petition on those rulings would argue the law in the statement of the case, which supports the inference that the Court's delay was part of an elaborate fraud to prevent any review of its actions.

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[21] "An attempt to commit a **fraud upon the jurisdiction of the Federal court**." Wecker v. National Enameling & Stamping, 204 U.S. 176, 51 L. Ed. 430 (1907).

[22] "**"Fraud upon the court"** should, we believe, embrace only that species of fraud which does or attempts to, defile the court itself, or **is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner** its impartial task of adjudging cases that are presented for adjudication." In re Intermagnetics America Inc., 926 F.2d 912 (9th Cir.1991); Gr. Coastal Exp. Inc. v. Inter. Brother.of Teamsters, 675 F.2d 1349 (4th Cir. 1982); Workman v. Bell, No. 96-6652 (6th Cir. 2000); Broyhill Furn. Ind. Inc. v. Craftmaster, 12 F.3d 1080 (F.C.1993).

7. Conspiracy Between the Court & Clerk

The actions of the Court and the Clerk violate their respective canons and R.2:8-1(d), making this a conspiracy to obstruct justice and to commit official misconduct [23] with respect to petitioner's right to a trial with an impartial judge, which warrants an exercise of this Court's discretion.

The Court could have relaxed the rules when considering the motion for leave since "adherence to it would result in an injustice". [24] R. 1:1-2. The Court has relaxed the rules in the past to correct judicial errors. [25] But, in this case, the Court conspired with the clerk to undermine this Court's subject jurisdiction and my right to have it correct a manifest injustice, or at a minimum to allow me to file a petition for a writ of certiorari unfettered by the foregoing misconduct.

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[23] "In re Conway, 107 N.J. 168 (1987) (disbarring attorney convicted of **conspiracy to obstruct Justice** by tampering with witness) . . . In re Baldino, 105 N.J. 453 (1987) (disbarring attorney convicted of **conspiracy to commit official misconduct** by subverting member of grand jury). In re Vigne, 146 N.J. 590 (N.J. 11/15/1996).

[24] See R. 1:1-2 ("Unless otherwise stated, **any rule may be relaxed or dispensed with**, . . ." etc.). Magill v. Casel, 568 A.2d 1221, 238 N.J.Super. 57 (A.D. 1990); U.S. v. Ohio Power Co., 353 U.S. 98, 99 (1957).

[25] Darel v. Pa. Mfgs. Assoc. Ins. Co., 114 N.J. 416 (1989) (court relaxed the rules to correct judicial error).

8. The Court and Clerk Denied Fundamental Fairness

Depriving this Court of jurisdiction in the foregoing manner is a drastic departure from traditional conceptions of due process, [26] making this an exceptional circumstance, which warrants this Court exercising its discretion. Hohn v. U.S., supra. The foregoing conduct supports several inferences.[27] One, the clerk of the Court would not delay sending his letter for 2 months if he knew the motion was not allowed by the Rules, nor would he misrepresent the motion, nor would he risk his job by violating his duty as defined by R.2:8-1(d), nor would he violate the Canons. So, he had no reason to violate these principles, which supports the inference that he did these things at the direction of the Court. Two, if my motion lacked merit, the Court would have granted leave and denied relief knowing this Court would find no federal issue. Three, the Court committed its fraud because it intentionally did not review my appeal using

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[26] **"Fundamental fairness" analysis may appropriately be applied to departures from traditional American conceptions of due process;** but when Judges test their individual notions of "fairness" against an American tradition that is deep and broad and continuing, **it is not the tradition that is on trial, but the Judges."** Edward H. Schad v. Aeizona, 501 U.S. 624, 111 S. Ct. 2491 (1991).

[27] "'Fundamental fairness requires that impermissible influences such as **bias and prejudice be discovered** nonetheless, **by inference** if not by direct proof. TXO Prod. Corp. v. Alliance Res., 113 S. Ct. 2711 (1993).

State v. Marshall as the standard of review so it could dismiss my appeal for not raising a constitutional issue, thereby avoiding the judge's bias. Four, the Court's delay was intended to run the filing time to prevent timely filing to show a failure to apply a constitutional standard of review, which might result in the same review as denying my motion. Five, the Court's fraud was intended to deny me relief in this Court, but more importantly to bar this Court from finding a lenient standard of review that deprives litigants of basic constitutional protection.

9. Conduct of the Court & Clerk Denies Due Process

The conduct of the Court and its Clerk creates the appearance of bias, which is a denial of due process.[28]

10. Court's Acts Reflects its Intended Decision

If this Court finds each of the foregoing reasons was a deliberate effort to avoid a decision, [29] then it must conclude that Court intended to deny the motion for leave.

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[28] "Even if there is no showing of actual bias in the tribunal, this Court has held that **due process is denied by** circumstances that create the likelihood or **the appearance of bias**." Peters v. Kiff, 407 U.S. 493 (1972).

[29] In the uncertainty of usage, the **judicial interpretive authority seeks for the meanings each party intended to convey by his words and acts, and for the meanings these words and acts conveyed** to the other party. Brewster v. Catalytic Con. Co., 17 N.J. 20, 32 (N.J. 12/13/1954).

II - Reason for Granting Certiorari

If this Court finds the N.J. Supreme Court and its Clerk violated the law in each of the foregoing reasons to deprive this Court of jurisdiction because a denial of the motion might be corrected by this Court, then their actions and intent represents a denial of that motion. [30] Based on that intent, this Court should grant certiorari since issuing a writ to decide that motion invites additional mischief based on their misconduct. For example, they may grant my motion, in order to avoid a review by this Court. Then, not publish the decision so it can continue depriving future litigants of a constitutional standard of review.

I have not plowed this field just so that Court can deny others the fruits of my labor, or deprive this Court of the opportunity to advance constitutional principles. Therefore, this Court should grant the petition for a writ of certiorari. Ex Parte Matter William W. Bierce Limited, 199 U.S. 603, 50 L. Ed. 329, 26 S. Ct. 751 (1905) (This Court granted both a petition for a writ of mandamus or certiorari).

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[30] In the uncertainty of usage, the **judicial interpretive authority seeks for the meanings each party intended to convey by his words and acts, and for the meanings these words and acts conveyed** to the other party. Brewster v. Catalytic Con. Co., 17 N.J. 20, 32 (N.J. 12/13/1954).

III - Waiving the Time Requirements

My motion was filed 3/6/01, and the clerk's 5/9/01 letter arrived 5/14/01 (Exh.A), 2 months later, after the time to file a petition had run. I relied on the fee I paid and R.2:8-1(d) as requiring a decision that would be delivered "forthwith"[31] so I could timely file. I did so to my detriment, because the Court violated R.2:8-1(d) and purposely delayed the clerk's letter. These acts warrant a waiver of the time to file a petition in the interests of justice [32] or estoppel. [33] I moved for an extension of time to file my petition, which was denied on 5/3/01 (Exh.B). Waiving the time requirement responds to the fraud and deliberate delay, both of which surfaced after Justice Souter denied the extension.

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[31] Black's law dictionary (Sixth Edition) **defines forthwith as "immediately; without delay**; directly; within a reasonable time under the circumstances of the case; promptly and within reasonable dispatch, (See also, U.S. ex rel. Carter v. Jennings,D.C. Pa., 333 F.Supp. 1392[1971]). People v. Agard, 680 N.Y.S.2d 155 (N.Y.Sup. 1998).

[32] **"The time requirements of our rules** are not jurisdictional . . . and **may be waived by the Court "in the exercise of its discretion when the ends of Justice so require."** William F. Parker v. Arkansas, 498 U.S. 883, fn.2, 111 S. Ct. 218, 112 L. Ed. 2d 186 (1990).

[33] "There is no showing of **detrimental reliance . . or a "manifest wrong and injustice"** sufficient **to invoke the doctrine of equitable estoppel** against this governmental entity. Vogt v. Bor. of Belmar, 14 N.J. 195, 205 (1954). In re Petition of Adamar., 222 N.J.Super. 464, 474-5 (A.D.1988).

IV - Rockaway Attorney's Fraud on This Court

Before my petition was returned for correction Rockaway Township submitted a reply which does not conform to this Court's rules. I am including their reply as exhibit N and responding to it in this petition. Hopefully, this will avoid the need for additional filings.

The reply by Mr. Buzak and Ms. Cubba violates the following Rules of Professional Conduct. R.P.C. 3.1 with a contention that is without merit, R.P.C. 3.2 by extending this litigation, R.P.C.3.3(a)(1) by making false statements of fact to this Tribunal in order to commit a fraud upon this Court, [34] and R.P.C.8.4(a)(c)(d) by violating the R.P.C. by making a misrepresentation intended to prejudice the administration of justice.

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[34] ""**Fraud upon the court**" should, we believe, embrace only that species of fraud which does or attempts to, defile the court itself, or **is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner** its impartial task of adjudging cases that are presented for adjudication." In re Intermagnetics., 926 F.2d 912 (9th Cir.1991); Gr. Coastal Exp. Inc. v. Inter. Br..of Teamsters, 675 F.2d 1349 (4th Cir. 1982); Workman v. Bell, No. 96-6652 (6th Cir. 2000); Broyhill Furn. Ind. Inc. v. Craftmaster, 12 F.3d 1080 (F.C.1993).

The second paragraph of their letter, in lieu of a more formal response, states; **"Mr. Fernandes has litigated his issues in all of New Jersey's state courts and even in the New Jersey Federal District Court, where Mr. Fernandes is currently barred from bringing before that court, any of the foreclosure matters that he refers to in his Statement of the Case."** This statement is false and violates the foregoing Rules because I presented every order issued in this case as exhibits in my appendix. The exhibits do not include an order from the N.J. Federal District Court since this foreclosure action was never before them.

These attorneys are attempting to perpetrate a fraud on this Court by falsely stating that I concealed an order from this Court to conceal some wrongdoing. This misconduct supports the inference [35] that they realize the Supreme Court perpetrated a fraud upon this Court as a matter of fact and law, so they are trying to prejudice my petition by making a false statement of material fact.

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[35] "'Fundamental fairness requires that impermissible influences such as **bias and prejudice be discovered** nonetheless, **by inference** if not by direct proof. TXO Prod. Corp. v. Alliance Res., 113 S. Ct. 2711 (1993).

I will be reporting their misconduct to the appropriate authority along with the fact that Mr. Buzak got Judge MacKenzie to sign an order to hold a sanction hearing without filing a motion. (Exh. J) Therefore, Judge MacKenzie denied me due process in violation of R.1:6-2(a) which requires "an application to the court for an order shall be by motion." This conduct by the judge is just one of many incidents that proves a bias in favor of the township as further reason for disqualifying him for conduct that was unjust. [36] Although he denied the motion for sanctions, (Exh.I) I raised this issue in the Supreme Court because allowing a hearing without a motion, in the first place, supports the inference that the judge deliberately refused to apply the Supreme Court ruling I cited as the result of his bias. I am bringing this matter to this Court's attention to show the audacity of these attorneys. Unable to present one authority to show the Court and Clerk did not commit a fraud, they make an accusation that is unsupported by evidence. They simply expect this Court to accept what they said in the same manner as the state courts.

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[36] "When a state deprives a person of liberty or property through a hearing held under statutes and circumstances which necessarily **interfere with the course of Justice,** it **deprives him of liberty and property without due process of law**. Moore v. Dempsey, 261 U.S. 86; Frank v. Mangum, 237 U.S. 309.

V – Providing Sample Petitions

I called and requested a sample petition, only to be told none were available. Although the booklet on the Court Rules was helpful, it still failed to answer certain questions. My petition was returned for minor errors, which required a few hours to correct, but many hours to publish and finish. I almost felt as though it was returned to discourage me.

In the interests of justice, judicial economy, and improving procedures that might be problematic to other non-professionals, I would like to suggest that a sample of every petition be posted to your internet site, with the publishing specifications and explanations so individuals have a concise guideline to follow. Moreover, you may want to publish your rules in a downloadable form that would allow people with computers or those using libraries to do searches and print only the applicable sections without requesting the booklets. Presenting the issues for review is difficult enough without making the preparation of the petition overly burdensome for ordinary people by having to go through your entire booklet. Lastly, by providing a skeleton of each petition in a format like word or a text file, a person could download that file and begin to immediately prepare their petition.

I am bringing this issue to your direct attention from a pro se's viewpoint.

CONCLUSIONS

The N.J. Supreme Court executed an elaborate fraud to deny me a review of its earlier orders and its refusal to decide the motion for leave. More importantly, that fraud was intended to deprive this Court of jurisdiction, so it could continue a standard of review that deprives litigants similarly situated of minimal constitutional protection.

In all my readings, I have never found a case where a state Supreme Court has attempted a fraud upon this Court. Therefore, I must conclude that it did so, because I am a pro se litigant, who might not be able to grasp their misconduct. Moreover, I view their misconduct as proof of a policy by our state's highest court aimed at disposing of pro se litigants via biased rulings. Therefore, the holdings of State v. Marshall as a constitutional standard of review is critical to ferreting out biased rulings and biased judges since our Supreme Court has exhibited conduct that proves the need for it.

TABLE OF EXHIBITS

EXH.	PAGE	DATE	DESCRIPTION
A	1	05/09/01	Letter from N.J.S.C. Clerk
B	2	05/03/01	Denial of Ext. to File Petition
C	3	02/07/01	Order Denying Reconsideration
D	4	11/16/00	Order Dismissing Appeal as of right
E	5	11/16/00	Order Denying Motion to Strike
F	6	06/06/00	Order Denying Mot. For Reconsider
G	7	05/05/00	Oder Denying Summ. Disp.& Rem.
H	8	05/05/00	Order Granting Summ. Disp.for Roc
I	9	03/03/00	Order Denying Sanction
J	10-11	01/21/00	Order Denying Mot. for Relief Rec.
K	12	12/27/99	Order Denying Recon. & Recusal
L	13	10/08/99	Order Dis. Counter. & Grant. Judg.
M	14	03/14/01	Letter to Clerk of N.J.S.C.
N	15	06/07/01	Letter in lieu of a Formal Response

SUPREME COURT OF NEW JERSEY

STEPHEN W. TOWNSEND
CLERK

GAIL GRUNDITZ HANEY
DEPUTY CLERK

OFFICE of the CLERK
P0 Box 970
TRENTON, N.J.
08625-0970

May 9, 2001

Mr. Nelson Fernandes
9 Fox Run
Denville, NJ 07834

Re: Township of Rockaway v. 15 Cayuga Ave.
(A-3-00) (Docket No. 49,969)

Dear Mr. Fernandes:

This will acknowledge receipt of your **second motion for reconsideration** of the Court's dismissal of your claimed appeal as of right in the above matter. As you know, the Court dismissed your appeal in an Order filed November 16, 2000. You moved for reconsideration of that decision. That motion was denied by the Court in an Order filed February 7, 2001 (M-692-00)

Unfortunately, the Rules of Court do not provide for repeated applications for reconsideration of the Court's actions. Having had your appeal dismissed and reconsideration denied **the matter is closed without further action being taken by the Court**.

Very truly yours,
Stephen Townsend

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHJNGTON, DC 20543-0001

WILLIAM K. SUTER
CLERK OF THE COURT

May 3, 2001

Mr. Nelson Fernandes
9 Fox Run
Denville, NJ 07834

Re: Nelson Fernandes
v. Township of Rockaway
App. #. 00A953

Dear Mr. Fernandes:

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to Justice Souter, who on May 3, 2001, denied the application.

This letter has been sent to those designated on the attached notification list.

Sincerely,

WILLIAM K. SUTER, Clerk
Clayton R. Higgins, Jr.
Assistant Clerk

EXH. B

ORDER Filed Feb. 7, 2001

SUPREME COTJRT OF NEW JERSEY
M-692 September Term 2000
49,969

TOWNSHIP OF ROCKAWAY,
Plaintiff-Respondent,
v.
15 CAYUGA AVENUE,
Defendant.

This matter having been duly presented to the Court, it is ORDERED that the motion of Nelson Fernandes for reconsideration of the order dismissing the appeal is denied.

WITNESS, the Honorable Deborah T. Poritz, Chief Justice, at Trenton, this 6th day of February, 2001.

Stephen Townsend

Clerk of the Supreme Court

ORDER Filed Nov. 16, 2000

SUPREME COURT OF NEW JERSEY
M-383 September Term 2000
49,969

TOWNSHIP OF ROCKAWAY,
Plaintiff-Respondent,
v.
15 CAYUGA AVENUE,
Defendant.

This matter having been duly presented to the Court, it is ORDERED that the motion of Nelson Fernandes to strike the plaintiff's response brief is denied.

WITNESS, the Honorable Deborah T. Poritz, Chief Justice, at Trenton, this 14th day of November, 2000.

Stephen Townsend

Clerk of the Supreme Court

EXH. D

ORDER Filed Nov. 16, 2000

SUPREME COURT OF NEW JERSEY
A-3 September Term 2000
49,969

TOWNSHIP OF ROCKAWAY,
Plaintiff-Respondent,
v.
15 CAYUGA AVENUE,
Defendant.

(Nelson Fernandes - Petitioner)

This matter having been duly presented to the Court on an appeal as of right, and **the Court having determined that the matter does not raise a substantial constitutional question under Rule 2:2-1(a)(1), it is ORDERED that the appeal is dismissed.**

WITNESS, the Honorable Deborah T. Poritz, Chief Justice, at Trenton, this 14th day of November, 2000.

Stephen Townsend

Clerk of the Supreme Court

ORDER ON MOTION

Filed June 6, 2000

TOWNSHIP OF ROCKAWAY
VS
15 CAYUGA AVENUE ET AL

SUPER.COURT OF N.J.
APPELLATE. DIV.
DOC.# A-002960-99T1
MOT.# M -005548-99
BEFORE PART: B
JUDGE(S) : CARCHMAN
LEFELT

MOTION FILED: MAY 16, 2000
BY: NELSON A FERNANDES
ANSWER(S) FILED:

SUBMITTED TO COURT: JUNE 05, 2000

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS ON THIS 5th DAY OF JUNE, 2000, HEREBY ORDERED AS FOLLOWS:

	GRANTED	DENIED
MOTION BY APPELLANT -FOR RECONSIDERATION	( )	(XX)

FOR THE COURT:
Philip S. Carchman

MRS F-4353—99

EXH. F

ORDER ON MOTION WHEN CROSS MOTION FILED
Filed May 5, 2000

TOWNSHIP OF ROCKAWAY
VS
15 CAYUGA AVENUE ET AL

SUPER.COURT OF N.J.
APPELLATE. DIV.
DOC.# A-002960-99T1
MOT.# M -005548-99
BEFORE PART: B
JUDGE(S) : CARCHMAN
LEFELT

MOTION FILED: MARCH 17, 2000
BY: NELSON A FERNANDES

SUBMITTED TO COURT: MAY 03, 2000

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS ON THIS 4th DAY OF MAY, 2000, HEREBY ORDERED AS FOLLOWS:

	GRANTED	DENIED
MOTION BY APPELLANT - FOR SUMMARY DISPOSITION - FOR REMAND	( )	(XX)

FOR THE COURT:
Philip S. Carchman

MRS F-4353—99

EXH. G 7

ORDER ON CROSS MOTION Filed May 5, 2000

TOWNSHIP OF ROCKAWAY
VS
15 CAYUGA AVENUE ET AL

SUPER.COURT OF N.J.
APPELLATE. DIV.
DOC.# A-002960-99T1
MOT.# M -005548-99
BEFORE PART: B
JUDGE(S) : CARCHMAN
LEFELT

CROSS MOTION FILED: MARCH 31, 2000
BY: ROCKAWAY TOWNSHIP
ANSWER(S) FILED: APRIL 10, 2000
BY: NELSON A FERNANDES

SUBMITTED TO COURT: MAY 03, 2000

ORDER

THIS MATTER HAVINGG BEEN DULY PRESENTED TO THE COURT, IT IS ON THIS 4th DAY OF MAY, 2000, HEREBY ORDERED AS FOLLOWS:

	GRANTED	DENIED
MOTION BY RESPONDENT -FOR SUMMARY DISPOSITION	(XX)	( )

FOR THE COURT:
Philip S. Carchman

MRS F-4353—99

EDWARD J. BUZAK, ESQ.
Montville Office Park
150 River Road, Suite N-4
Montville, New Jersey 07045
(973)335-0600
Attorney for Plaintiff, Township of Rockaway

Filed March 3, 2000

TOWNSHIP OF ROCKAWAY, a municipal. corp. in the County of Morris and State of New Jersey, Plaintiff, v.	SUPER. CT. OF N.J. CHANCERY DIV. MORRIS COUNTY DOC. # F-12627-990
15 Cayuga Ave., Bl. 20504, Lt. 8 Assessed to Nelson and Joan Fernandes, husband and wife, Defendants.	CIVIL ACTION, ORDER

THIS MATTER having come before the Court for a hearing on March 3, 2000 on the motion by the Plaintiff for sanctions in accordance with R.1:4-8, and the Court having reviewed the papers submitted and heard oral argument on the same, and for good cause shown; '

It is on this 3rd. day of March, 2000

ORDERED that motion for sanctions is denied.

Signed by Kenneth C. MacKenzie, J.S.C.

X Opposed

EXH. I

EDWARD J. BUZAK, ESQ.
Montville Office Park
150 River Road, Suite N-4
Moritville, NJ 07045
(973) 335-0600
(973) 335-1145 - Fax
Attorneys for Plaintiff, Township of Rockaway

Filed Jan. 21, 2000

TOWNSHIP OF ROCKAWAY,
a municipal corporation in
the County of Morris and State
of New Jersey,
Plaintiff,

vs.

15 Cayuga Avenue
Block 20504, Lot 8
Assessed to Nelson and Joan
Fernandes, husband and wife,
Defendants.

SUPER. CT. of N.J.
CHANCERY DIV.
MORRIS COUNTY
DOC. # P12627-99

Civil Action
ORDER

THIS MATTER having come before this Court for a hearing on January 21, 2000 on the **motion of Defendant for relief from Judgment**, orders and **recusal/change of venue**, and the Court having reviewed. the papers submitted and heard oral argument on the same, and for good cause shown;

It is on this 21nd. day of January, 2000

ORDERED that Defendant's motion for relief from judgment, orders and **recusal/change of venue be and the same is hereby denied**; and it is further

ORDERED that final judgment will not be entered for 30 days to allow Plaintiff the opportunity to seek sanctions in accordance with N.J.R 1:4-8.

Signed by Kenneth C. MacKenzie, J.S.C.

X Opposed

Exh. J

(Handwritten Reasons by the Judge)

Reasons: The decisions reached by this Court are consistent with controlling principles of law. They were made following full and fair consideration of the issues raised. The (unreadable) these opinions are ratified and confirmed. (Unreadable) has been accorded due process of law, as the record will reflect. There is no factual or legal basis for the court to recuse itself or to change venue.

Neison Fernandes- Pro Se
9 Fox Run
Denville, NJ. 07834
(973) 627-2138

Dec. 27, 1999

Township of Rockaway,
Plaintiff,

vs

Mt. Hope Avenue, Dover
Defendant.

Sup Ct. of N.J.
Chan. Div. Gen. Equity
Morris County

Doc. #. MRS-F-4353~99

Civil Action

ORDER on
RECONSIDERATION

THIS MATTER having come before the Court on a motion for reconsideration, and hearing held on Nov. 5, 1999 on the motion of Defendant requesting reconsideration of the Court's decision of Oct 8, 1999 with no cross-motion by Plaintiff. This matter having been fully submitted and heard and for good cause shown;

IT IS on this 27 th. Day of December, 1999:

ORDERED that the motion for reconsideration be and the same is hereby denied.

IT IS FURTHER ORDERED that **defendant's motion for recusal and change of venue is also hereby denied.**

Signed by Kenneth C. MacKenzie, J.S.C.

EXH. K

EDWARD J. BUZAK, ESQ.
150 River Road, Suite N4
Montville, New Jersey 07045
(973) 335-0600

FILED Oct. 8, 1999

TOWNSHIP OF ROCKAWAY,
a municipal corporation in the County of Morris and State of New Jersey,
Plaintiff,

vs.

15 Cayuga Avenue
Block 20504, Lot 8
Assessed to Nelson and Joan Fernandes, husband and wife,
Defendants.

SUPER. CT. of N.J.
CHANCERY DIV.
MORRIS COUNTY
DOC. # P12627-99

Civil Action
ORDER

THIS MATTER having come before the Court for a hearing on October 8, 1999 on the motion of Defendant requesting an Order allowing defendant to file an amended answer with counterclaims and vacating the former state court judgment as well as on Plaintiff's cross-motion to strike defendant's answer and the matter having been fully submitted and heard and for good cause shown;

IT IS on this 8th day of October 1999:

ORDERED that Defendant's motion requesting an Order allowing defendant to file an amended answer with counterclaims is hereby denied and it is further

ORDERED that defendant's motion requesting an Order vacating the former state court judgment is hereby denied; and it is further

ORDERED that Plaintiff's motion to strike defendant's answer is hereby granted; and it is further

ORDERED that Plaintiff's motion for entry of final judgment, pursuant to R 464-7(g), subject to the filing of the requisite proof of publication, posting and service, and an affidavit non redemption is hereby granted

Signed by Kenneth C. MacKenzie, J.S.C.

EDWARD BUZAK
MONTVILLE OFFICE PARK
150 RIVER ROAD SUITE N-4
MONTVILLE, NEW JERSEY 07045
(973) 335-0600

March 7, 2001 Corrected: March 14, 2001

Steven W. Townsend, Esq.
Supreme Court of New Jersey
25 W. Market Street
P.O. Box 970
Trenton, New Jersey 08625-0970

Re: Township of Rockaway v. 15 Cayuga Ave.
Docket #49,969

Dear Mr. Townsend:

This office represents the Township of Rockaway. The Township is in receipt of the defendant's latest motion filed with the Supreme Court. Today I spoke with Vera at the Supreme Court who informed me that the rules of court do not provide for the filing of **defendant's motion for leave to file a second motion for reconsideration** in the above captioned matter. I suspected the same after reviewing the court rules, but sought confirmation of my conclusion by the Court. Therefore, the Township will not be responding to the defendant's improperly filed, motion.

Very truly yours,

Edward J. Buzak

EDWARD J. BUZAK
Law Offices
MONTVILLE OFFICE PARK
150 -RIVER ROAD SUITE N-4
MONTVILLE, NEW JERSEY 07045
(973) 335-0600

June 7, 2001

William K. Suter, Clerk
Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Re: In Re Nelson Fernandes, Petitioner. (Mr. Fernandes)
On Petition for an Extraordinary Writ
To The Supreme Court of New Jersey

Dear Sir:

This office represents the Township of Rockaway (New Jersey). The Township of Rockaway respectfully requests that it not be required to formally file papers before this Court to respond to Mr. Fernandes. Please accept this letter in lieu of a more formal response required by the Supreme Court Rules 15 and 20. On June 4, 2001 we received from Mr. Fernandes, papers in the above captioned matter. We have reviewed the same and it appears to us that Mr. Fernandes has failed to meet the burden set forth in Supreme Court Rule 20 for obtaining the Extraordinary Writ that he seeks, that is, that "the writ will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court."

Mr. Fernandes has litigated his issues in all of New Jersey's state courts and even in the New Jersey Federal District Court, where Mr. Fernandes is currently barred from bringing before that court, any of the foreclosure matters that he refers to in his instant Statement of the Case. Mr. Fernandes' arguments are as usual based on the erroneous conclusion that whenever a court rules against him that there has been a fraud committed by that court, which in turn deprives him of due process. Here, he accuses the New Jersey Supreme Court of the 'intended goal of fraud'. See Fernandes Petition at p.3. Mr. Fernandes goes on to accuse the Clerk of the New Jersey Supreme Court of misrepresentation because the Clerk's letter of May 9, 2001 informed Mr. Fernandes that there was no procedure for filing for leave to file a second motion for reconsideration when the first filing for the same had been denied. Mr. Fernandes not being satisfied that the Supreme Court of New Jersey knows the Rules of Court of New Jersey made up his own procedure for the filing of a purported leave to file a second motion for reconsideration. See Fernandes Petition, EXH. A. Mr. Fernandes offers "Other Grounds for Exercising Discretion" by, again, stating that the New Jersey Supreme Court "decided to commit a fraud" with regard to the denial of his second application for reconsideration. See Fernandes Petition, p.9 and p.11.

Accordingly, this Court should deny Mr. Fernandes' Petition for Extraordinary Writ for failure to meet his burden for the issuance of the same.

Very truly yours,

EDWARD J. BUUZAK, ESQ.

Therese H. Cubba, Esq.